REMARKS

Claims 1-24 are pending in the present application. In the Office Action mailed November 16, 2005 the Examiner rejected claims 1-24 under 35 U.S.C. §103(a) as being unpatentable over Sorkin (USP 6,380,508) in view of New et al. (USP 5,916,465). In setting forth the rejection, the Examiner only identified New et al. by the last three digits of the patent number. Applicant telephoned the Examiner upon receipt of the Office Action to ascertain the identification of this reference. In order to establish a complete and accurate record, Applicant requests that the Examiner provide a Notice of References Cited which lists New et al. USP 5,916,465.

The Examiner rejected claims 1-24 under 35 U.S.C. §103(a) as being unpatentable over Sorkin in view of New et al. stating that "Sorkin I [sic] teaches the claimed plasma torch with a pivoting head, as claimed ..." and that "New et al. is applied for teaching torch head 120, 70 which respectively pivots ... with respect to the torch body." Applicant has amended claim 1 to further define that which is called for therein. As amended, claim 1 calls for a torch body having a handle which extends from a first end to a second end. Claim 1 further defines that the first end is fixed with respect to the second end of the handle.

Although the Examiner suggests that "Sorkin I [sic] teaches the claimed plasma torch with a pivoting head", Sorkin does not teach or disclose that which the Examiner alleges is shown therein. Applicant fully addressed the disclosure of Sorkin in the Response of May 2, 2005. Sorkin is directed to an apparatus and method for severing a tendon used in post-tension construction. *See* Title. Sorkin utilizes a plasma torch to sever this tendon. As shown in the figures of Sorkin, the torch includes a pivot 28 which is received in a pivot point 15 formed in a pocket 12 surrounded by the workpiece 10. During use, the pivot 28 and pivot point 15 generally cooperate to allow an operator, upon rotation of the torch handle, with the torch head secured thereto, to sever the tendon. The Examiner has provided no citation to Sorkin to support the allegation that Sorkin "teaches the claimed plasma torch with a pivoting head." Such is simply not disclosed therein. The head of the torch of Sorkin must pivot with the handle thereof to sever the tendon. To allege that Sorkin "teaches the claimed plasma torch with a pivoting head" is well beyond the disclosure of this reference.

Applicant does not necessarily disagree that New et al. discloses a TIG torch having a multi-positionable head. Referring to Fig. 4, New et al. states that "manual rotation of the front and rear handle portions 52, 54 respectively, relative to one another in one direction (e.g., rotating the rear handle section clockwise, aft looking forward, relative to the front handle section) causes

the body 12 to move axially forward in the swivel housing 30 so that the forward end of the body compresses the spring mechanism 104 into substantial pressure engagement with the swivel seat 102 to lock the swivel member 74 in position due to friction between the swivel end and the socket and seat." Col. 3, ln. 62 to col. 4, ln. 4. That is, upon relative rotation of one of the forward and/or the rear sections of the handle, the pivotable connection between the swivel member 74 and the handle is loosened thereby allowing positioning of the swivel member. New et al. requires rotation between a first end of the handle portion and a second end of the handle portion to allow loosening and tightening of the pivotable connection. Unlike the system of New et al., claim 1 calls for plasma cutting torch having a handle with a first end that is fixed with respect to a second end. Constructing the TIG torch of New et al. in such a manner would render the torch head non-adjustable. Accordingly, that which is called for in claim 1 is not shown, disclosed, taught, or suggested in the art of record. As such, Applicant believes claims 1, and the claims which depend therefrom, are patentably distinct over the art of record.

The Examiner also rejected claim 10 under 35 U.S.C. §103(a) as being unpatentable over Sorkin in view of New et al. stating that "New et al. is applied for teaching torch head 120,70 which respectively pivots… with respect to the torch body" and "[t]his pivoting enables a greater versatility of the torch and in view of this teaching it would have been obvious to modify the Sorkin et al. system with the same, to enable work of greater number of shapes to be processed." As argued above, Sorkin et al. does not disclose or suggest a torch having an adjustable head. Applicant does not necessarily disagree that New et al. teaches a torch having a head portion pivotably connected to a handle portion, however that is not what is called for in claim 10. Claim 10 calls for, in part, a plasma cutting assembly having a multi-position head ratchetably connected to a plasma torch. There is no disclosure or suggestion of a plasma torch having such a construction in the art of record. Sorkin does <u>not</u> disclose a torch having a movable head and Sorkin fails to teach or suggest a ratchable connection between the head and the plasma torch as called for in claim 10.

New et al. discloses a TIG torch having a pivotal head assembly wherein the swivel member is connected to the body with a ball-and-socket type connection. Once the handle section of the torch has been rotated to loosen the ball and socket connection, the swivel member is allowed to move freely within the socket. New et al. states that "[r]otation of the front and rear handle sections 52, 54 relative to one another in the opposite direction (e.g., rotating the rear handle section counter-clockwise, aft looking forward, relative to the front handle section) causes the body 12 to move axially rearward to relieve the pressure between the swivel end 78 and the

swivel seat 102 so the head 70 of the torch 10 can be rotated or swiveled to another position." Col. 4, lns. 5-11. That is, once the handle section has been rotated to relieve the pressure between the swivel end and the swivel seat, the swivel is free to move unrestricted in any direction and to any degree. There is no ratchable connection between the head and the plasma torch as called for in claim 10. Accordingly, the art of record does not teach or suggest that which is called for in claim 10. As such, Applicant believes claims 10, and the claims that depend therefrom, are patentably distinct over the art of record.

The Examiner rejected claim 17 under 35 U.S.C. §103(a) as being unpatentable over Sorkin in view of New et al. Applicant has amended claim 17 to further define that which is called for therein. Applicant has added the subject matter of claim 23 to claim 17. Claim 17 is hereby cancelled. As amended, claim 17 calls for a plasma torch having means for providing restricted adjustment of a position of a work tip portion relative to a handle portion when the work tip portion is connected to the handle portion wherein the restricted adjustment limits rotation of the work tip portion relative to the handle portion along two axes. New et al. states that "[t]he swivel member 74 is rotatable 360 degrees in the socket 38 about the central axis A4 (FIG. 2) of the housing 30, and is also swivelable 30 degrees in the socket to position the head 70 of the torch 10 in a selected angular position relative to the handle 50 as shown in FIG. 5" and that "[t]he swivel angle (i.e., the angle A in FIG. 4 between the conical surface 40 of the swivel housing 38 and the central axis A4 (FIG. 2) of the housing) is preferably about 30 degrees, but this angle may vary." Col. 3, lns. 29-37. New et al. further states that "swivel member 74 may be pivoted to an even greater swivel angle (e.g., up to about 80 degrees) at one location by providing aligned notches 90, 92 in the forward ends of the swivel housing 30 and front handle section 52, respectively." Col. 3, lns. 37-43. That is, when loosened, the connection assembly of New et al. allows unrestricted movement of the head portion of the torch along all three axes.

As discussed in paragraph [0031] of the present application, restricting work tip portion motion relative to the handle portion provides the operator with infinitely variable two-dimensional positioning of the head portion relative to the handle portion thereby increasing process efficiencies. That is, limiting adjustment of the work tip portion relative to the handle portion along two distinct axes allows an operator to quickly position the head portion relative to the handle portion for a desired process. Comparatively, New et al. teaches a torch that is adjustable along three axes. While New et al. may provide greater adjustment of the torch head relative to the torch handle, Applicant's invention addresses productivity concerns ignored by New et al. Understandably, the presently claimed invention allows faster and more precise

adjustment, albeit in only 2 planes. Accordingly, the art of record does not teach or suggest that the improvements called for in claim 17. As such, Applicant believes claims 17, and the claims which depend therefrom are patentably distinct over the art of record.

Therefore, in light of at least the foregoing, Applicant respectfully believes that the present application is in condition for allowance. As a result, Applicant respectfully requests timely issuance of a Notice of Allowance for claims 1-22 and 24.

Applicant appreciates the Examiner's consideration of these Amendments and Remarks and cordially invites the Examiner to call the undersigned, should the Examiner consider any matters unresolved.

Respectfully submitted,

/Kirk L. Deheck/

Kirk L. Deheck
Registration No. 55,782
Phone 262-376-5170 ext. 16
kld@zpspatents.com

Dated: February 16, 2006.
Attorney Docket No.: ITW7510.094

P.O. ADDRESS:
Ziolkowski Patent Solutions Group, SC
14135 North Cedarburg Road
Mequon, WI 53097-1416
262-376-5170